



Nebraska Sales and Use Tax

Manufacturing Machinery and Equipment (MME) 2013

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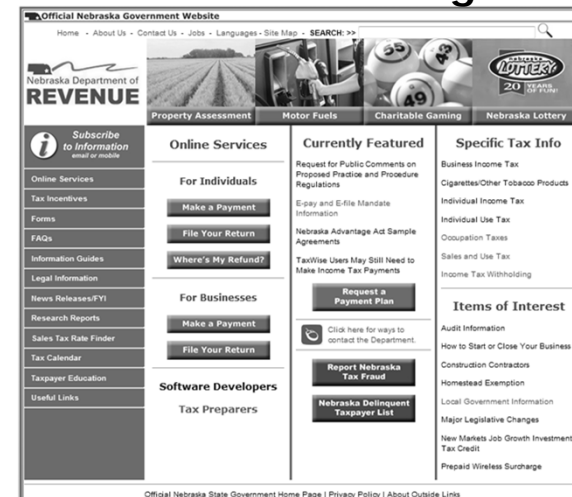
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Overview of Sales and Use Tax

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What is a Sales Transaction?

Sales tax is:

- a transactional tax,
- based on the transaction,
- rather than the item sold.

Where the item or service is delivered determines the local sales tax rate and to whom the tax is due.

A **sale** is:

- the transfer of title or possession,
- of an item or taxable service,
- for consideration.

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Sales Transaction (continued)

A lease or rental

- is a **sale**,
- because there is a transfer of **possession**.
- **Sales tax** is due on each payment.

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All Sellers...

...are the **consumers** of anything they use to sell their items; and

...**must pay tax** on them.

Example 1: Cash registers.

Example 2: Display racks, posters, & mannequins.

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Taxable Services

- Animal specialty services
- Building cleaning
- Computer software training
- Detective services
- Installing/applying tangible personal property
- Motor vehicle towing, washing/waxing, painting
- Pest control services
- Recreational vehicle (RV) park services
- Security services
- Repair labor

For a complete list of taxable and nontaxable services, see the [Nebraska and Local Sales Tax Information Guide](#) on our website.

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Gross Receipts

Gross receipts mean the total amount of a sale or lease for a **consideration**.

Sales tax is calculated on the gross receipts of the sales transaction.

For more information, see [Reg-1-007](#) – Gross Receipts Defined.

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Delivery Location

The delivery location determines the rate of local sales tax.

- The delivery location is where the purchaser picks up the item or where he/she takes possession of it.
- The local **sales tax** rate depends on whether the delivery location is inside or outside city limits.
- When delivery is outside Nebraska, contact the other state.

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Collecting Sales Tax

- **All sales** transactions are presumed taxable.
- **Sales** must be separately stated (with 4 exceptions).


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The Bottom Line for Sales Tax

Sellers must collect sales tax
– or –
document why they did not.

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Form 13, Section A

 Nebraska Resale or Exempt Sale Certificate for Sales Tax Exemption • Read instructions on reverse side/see note below RESET FORM		FORM 13
NAME AND MAILING ADDRESS OF PURCHASER		NAME AND MAILING ADDRESS OF SELLER
Name		Name
Street or Other Mailing Address		Street or Other Mailing Address
City State Zip Code		City State Zip Code
Check Type of Certificate <input type="checkbox"/> Single Purchase <input type="checkbox"/> Blanket If blanket is checked, this certificate is valid until revoked in writing by the purchaser. I hereby certify that the purchase, lease, or rental by the above purchaser is exempt from the Nebraska sales tax for the following reason: Check One <input type="checkbox"/> Purchase for Resale (Complete Section A) <input type="checkbox"/> Exempt Purchase (Complete Section B) <input type="checkbox"/> Contractor (Complete Section C)		
SECTION A—Nebraska Resale Certificate Description of Item or Service Purchased I hereby certify that the purchase, lease, or rental of from the above seller is exempt from the Nebraska sales tax as a purchase for resale, rental, or lease in the normal course of our business, either in the form or condition in which purchased, or as an ingredient or component part of other property to be resold. I further certify that we are engaged in business as a: <input type="checkbox"/> Wholesaler <input type="checkbox"/> Retailer <input type="checkbox"/> Manufacturer <input type="checkbox"/> Lessor of Description of Product Sold, Leased, or Rented and hold Nebraska Sales Tax Permit Number 01- If None, State Reason or Foreign State Sales Tax Number State		

For more detailed information, refer to the Form 13 instructions.

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Form 13, Section B (continued)

- Qualified manufacturing machinery and equipment (MME)
 - MME PowerPoint slides
 - MME information guide
 - Reg-1-107 – MME Exemption
- Vehicles and parts for vehicles used by a common or contract carrier
 - Common or Contract Carrier information guide
 - Reg-1-069 – Common & Contract Carriers

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Form 13, Section B (continued)

 Nebraska Resale or Exempt Sale Certificate for Sales Tax Exemption • Read instructions on reverse side/see note below RESET FORM		FORM 13
NAME AND MAILING ADDRESS OF PURCHASER		NAME AND MAILING ADDRESS OF SELLER
Name		Name
Street or Other Mailing Address		Street or Other Mailing Address
City State Zip Code		City State Zip Code
Check Type of Certificate <input type="checkbox"/> Single Purchase <input type="checkbox"/> Blanket If blanket is checked, this certificate is valid until revoked in writing by the purchaser. I hereby certify that the purchase, lease, or rental by the above purchaser is exempt from the Nebraska sales tax for the following reason: Check One <input type="checkbox"/> Purchase for Resale (Complete Section A) <input type="checkbox"/> Exempt Purchase (Complete Section B) <input type="checkbox"/> Contractor (Complete Section C)		
SECTION B—Nebraska Exempt Sale Certificate The basis for this exemption is exemption category (Insert appropriate category as described on reverse of this form.) If exemption category 2 or 5 is claimed, enter the following information: Description of Item(s) Purchased Intended Use of Item(s) Purchased If exemption categories 3 or 4 are claimed, enter the Nebraska Exemption Certificate number. 05- If exemption category 6 is claimed, seller must enter the following information and sign this form below: Description of Item(s) Sold Date of Seller's Original Purchase Was Tax Paid when Purchased by Seller? Was Item Depreciable? <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> YES <input type="checkbox"/> NO		

For more detailed information, refer to the Form 13 instructions.

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Containers

Two types of containers:

- **Returnable**
 - Taxable to the entity who places contents into them.
- **Nonreturnable**
 - Nontaxable to the entity who fills the container and sells the contents with the container.

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Gross Receipts – Delivery Charges

Delivery charges are taxable when:

1. The buyer pays the seller for the delivery charge;
-and-
2. The transaction is taxable.

Delivery charges are taxable regardless of the method of delivery.

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Computer Software, Installation, and Digital Goods & Services

Taxable Examples

Software/ Software Installation

- Tangible medium
- Internet transferred software
- Software training / re-training by the seller
- Maintenance agreements with updates

Digital Goods

- Electronic books and book clubs
- Downloading songs & ringtones
- Movies, music videos, & TV shows

Services

- Virus protection software, monitoring services, security services, and testing

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Computer Software, Installation, and Digital Goods & Services

(continued)

Nontaxable Examples

Software/ Software Installation

- Cloud computing
- Accessing web-based applications (no code necessary)
- Access codes for online subscription services

Digital Goods

- Web design without license transfer
- Electronically-transferred photographs

Services

- Help desk without updates

Refer to Regulation 1-088 – Software and the Computer Software information guide for more information.

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What is Use Tax?

- **Use tax** is due when Nebraska sales tax has not been paid on a taxable item or service purchased for use in Nebraska.
- Sales and **use tax** are **not both due** on the same transaction.
- The big difference is **who** remits the tax -
 - **Sales tax** is collected and remitted by the **seller**.
 - **Use tax** is paid directly to the Department by the **purchaser/consumer**.

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Use Tax (continued)

Use tax and **sales tax** have these things in common -

- They are imposed on the same transactions.
- They have the same exemptions.
- They are calculated at the same rate.
 - Where delivery occurs
 - or-
 - Where first usage in Nebraska takes place.

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Use Tax (continued)

- Often due when purchases are made from an **out-of-state seller**.
 - Internet, catalog, mail order
 - Magazines and journals by subscription
- Due when the business withdraws **tax-free inventory** for business or personal use (including donations).
 - Auto mechanic
 - Hair salon

Note: Be sure to maintain good records!

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Delivery Charges (continued)

If you owe **use tax** on a purchase, you also owe **use tax** on any delivery charge paid to the seller as part of that purchase.

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Overview of Manufacturing

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What is “Manufacturing?”

Manufacturing is...

performing any action or series of actions on tangible personal property – by hand or machine – resulting in the property being reduced or transformed into a different:

- state
- quality
- form
- property
- thing.

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What is “Manufacturing?” (continued)

Manufacturing does **not** include:

- Document shredding
- Mining
- Bottling
- Sorting
- Retail operations
- Generation or transmission of electricity
- Production or transmission of information or data
- Preparation of food for immediate consumption
- Purification or transportation of water
- Commercial agricultural operations or support of those operations

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Manufacturing Machinery & Equipment (MME)

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Manufacturing Machinery & Equipment (MME)

MME is machinery and equipment:

- Used in manufacturing; **and**
- Purchased by a person or entity engaged in the business of manufacturing.

MME can be purchased
sales tax exempt.

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MME (continued)

Machinery and equipment is **exempt from sales and use taxes** when **both** these criteria have been met:

1. More of the manufacturer's total annual revenue is from sales of tangible personal property they manufacture than from any other business activity;

-and-
2. The machinery and equipment is used more than 50% of the time in manufacturing.

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MME (continued)

Machinery and equipment is tax exempt when it is:

1. Used to produce, fabricate, assemble, process, finish, refine, or package tangible personal property;

Examples -

- Drill press used to manufacture shelving and cabinets.
- Extrusion mold used to produce rigid styrofoam to ship cabinets.

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more...

MME (continued)

2. Used to transport, convey, handle, or store the manufactured goods or raw materials;

Examples -

- Forklift used to off load raw materials, or used to move the finished product throughout the facility.
- Shelving used to store raw materials or the finished product.

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more...

MME (continued)

3. Used to maintain the integrity of the manufactured products, or unique environmental conditions for the products or MME itself;

Examples -

- Humidifier used to maintain paper quality in a paper plant.
- Freezer used by an ice cream manufacturer.

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more...

MME (continued)

4. Used to test or measure the product, the manufacturing process, or the quality of the finished products;

Example -

- Incubator used to determine bacteria level in manufactured meat product.

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more...

MME (continued)

5. Computers, software (and related training), and related peripheral equipment used to guide, control, operate, or measure the manufacturing process.

Example -

- Computer hardware and software used to direct robotic assembly line equipment to attach a rivet at a particular point.

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more...

MME (continued)

6. The MME is not required to actually “touch” or work on the item being manufactured in order to qualify for the exemption;

Examples –

- Boilers used by manufacturers to produce steam essential to the manufacturing process
- Equipment used to make a necessary catalyst
- Molds, dies, and materials necessary to create them for use in manufacturing the finished product or its packaging
- Component parts used to create self-constructed equipment
- Replacement parts
- Repair labor charges
- Installation and maintenance services

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more...

MME (continued)

Repair of MME

Manufacturers may purchase parts and labor to repair MME **sales tax exempt**.

Examples –

- Motor for a drill press
- Grease or other lubricants to keep the drill press running
- Repair labor

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MME (continued)

Warranties and Guarantees

Sales of warranties and guarantees that cover exempt MME are also **sales tax exempt**.

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MME (continued)

Taxable Machinery & Equipment

Examples –

- Tools powered by hand
- Security equipment
- Safety equipment
- Repair shop equipment
- Cleaning equipment
- Licensable motor vehicles and trailers
- Equipment used in retail operations
- Office equipment used for research and development
- Office equipment, including computers and software

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MME (continued)

Other Taxable Items

Items necessary to the production of a product that are not considered MME.

Examples –

- Catalyst - a catalyst is a chemical that causes or facilitates a reaction without becoming a part of the resulting chemical compound
- Cutting oil used on a drill press to cut holes in the manufactured product

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MME (continued)

Dual Use of MME

MME that is used **both** for manufacturing and for other purposes is exempt when **more than 50%** of its total use is for manufacturing.

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MME (continued)

Documenting Exempt Purchases

Manufacturers must give a properly completed Form 13, Section B, Category 5 to their Nebraska vendors.

Nebraska Department of REVENUE		Nebraska Resale or Exempt Sale Certificate for Sales Tax Exemption <small>* Read instructions on reverse side/see note below</small>		FORM 13
NAME AND MAILING ADDRESS OF PURCHASER		NAME AND MAILING ADDRESS OF SELLER		
Name		Name		
Street or Other Mailing Address		Street or Other Mailing Address		
City State Zip Code		City State Zip Code		
Check Type of Certificate <input type="checkbox"/> Single Purchase <input type="checkbox"/> Blanket If blanket is checked, this certificate is valid until revoked in writing by the purchaser.				
I hereby certify that the purchase, lease, or rental by the above purchaser is exempt from the Nebraska sales tax for the following reasons:				
Check One <input type="checkbox"/> Purchase for Resale (Complete Section A) <input type="checkbox"/> Exempt Purchase (Complete Section B) <input type="checkbox"/> Contractor (Complete Section C)				
SECTION B—Nebraska Exempt Sale Certificate				
The basis for this exemption is exemption category (Insert appropriate category as described on reverse of this form.)				
If exemption category 2 or 5 is claimed, enter the following information:				
Description of Item(s) Purchased		Intended Use of Item(s) Purchased		
If exemption categories 3 or 4 are claimed, enter the Nebraska Exemption Certificate number: 05-				
If exemption category 6 is claimed, seller must enter the following information and sign this form below:				
Description of Item(s) Sold	Date of Seller's Original Purchase	Was Tax Paid when Purchased by Seller?	Was Item Depreciable?	
		<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO	

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Contractors

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Contractor Database

- **Every** construction contractor making payment to a subcontractor must withhold 5%;...
- **Unless** the subcontractor is **registered** in the Department of Labor's Contractor Registration Database.

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Contractor Database (continued)

- A single definition of “contractor” is used for purposes of the **Contractor Registration Act** and construction contractor **withholding**.
(This definition is slightly different than the sales and use tax definition of a contractor.)
- A centralized registration system is used for construction contractors.
- The Department of Labor administers the Contractor Database.

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Construction Contractor

- Contractors may purchase and annex MME to real property, or repair MME that is annexed.
- The MME and repair parts purchased and annexed by a contractor are taxed according to the **contractor option** chosen.
- **Charges for contractor labor are not taxable.**

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Construction Contractor (Continued)

- Makes repairs or improvements to real estate or items annexed to real estate.
- Arranges for annexation.

Examples you may not have thought about -

- Landscapers who build or repair retaining walls.
- Interior designers who arrange for construction work to be done (hanging wallpaper).
- Providers of restoration services to real estate.

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Contractor Labor

- Annexing building materials to real estate.
- Repair of a structure.
- Repair of building materials that are or will be annexed to real estate.
- Charges for contractor labor are not taxable.

Example: Hanging drywall.

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Building Materials

- Property (including fixtures) that will be annexed to real estate or to an improvement on real estate (see Reg-1-017-02).
- **Does not include:**
 - Tools;
 - Supplies; or
 - Equipment;
 - Other items not annexed.

Example: Rebar embedded in concrete is a building material. Form lumber is not.

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Fixtures

- Equipment that must be annexed to a building or structure so that it can properly function.
- Fixtures remain identifiable as a separate item.

Example: Water heater.

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Contractor Options

- Contractor Options apply only to **construction contractor projects**.
- Option chosen determines:
 - How **sales** and **use tax** is paid on building materials and fixtures; or
 - If **sales tax** is collected from the customer on building materials and fixtures
- Audits will be conducted based on the default option or option chosen. If an option is not chosen, **default = Option 1**.

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Contractor Option Transactions

- **Retail Sales** (TPP & Taxable Services)
Taxable at rate in effect where delivery occurs.
- **Contractor Labor**
Not taxable.
- **Nontaxable Services**

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Option 1 Contractor

- Transactions with the Supplier

- Purchases building materials and fixtures for resale.
- Must give Nebraska supplier a properly completed Form 13, Section C, Block 1.

- Transactions with the Customer

- Does not collect **sales tax** on separately stated labor charges.
- Must collect **sales tax** on separately stated charges for building materials and fixtures.
- If charges for building materials and labor are not separately stated, the entire amount is taxable.

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Option 2 Contractor

- Transactions with the Supplier

- Pays **sales** or **use tax** on purchases of building materials and fixtures.

- Transactions with the Customer

- Does **not** collect **sales tax** on any portion of the invoice. Cannot accept a Form 13.

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Option 3 Contractor

- Transactions with the Supplier

- Purchases building materials and fixtures tax-free.
- Must give Nebraska supplier a properly completed Form 13, Section C, Block 1.

- Transactions with the Customer

- Must remit **use tax** at the rate in effect at the time and place of withdrawal of building materials and fixtures from inventory.
- Does **not** collect **sales tax** on any portion of the invoice. Cannot accept a Form 13.

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Contractor Issues

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Option 1 Contractor

- Transactions with the Supplier
 - Can purchase MME or repair parts **sales tax exempt for resale**.
 - Must give Nebraska supplier a properly completed Form 13, Section C, Block 1.
- Transactions with the Manufacturer
 - Does **not** collect **sales tax** on any portion of the invoice.
 - Must obtain a properly completed Form 13, Section B, Category 5 from the manufacturer.

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Option 2 Contractor

- Transactions with the Supplier
 - Pays **sales** or **use tax** on its purchase of MME and repair parts for the MME.
- Transactions with the Manufacturer
 - Does **not** collect **sales tax** on any portion of the invoice. **Cannot** accept a Form 13.

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Option 3 Contractor

- Transactions with the Supplier
 - Buys MME or repair parts **sales tax exempt**.
 - Must give Nebraska supplier a properly completed Form 13, Section C, Block 1.
- Transactions with the Manufacturer
 - Must **remit use tax** at the rate in effect at the time and place of withdrawal of MME or repair parts from inventory.
 - Does **not** collect **sales tax** on any portion of the invoice. Cannot accept a Form 13.

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Construction Contractor

Please note: MME does **not** include items that are an integral part of a building.

Examples –

- Foundation for a specific piece of MME.
- Electrical wiring from the electrical panel to the shutoff box for the MME.

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Water & Energy Source Utility Exemption

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Water Exemption

- **Sales tax is not due when more than 90%** of the water billed through a single meter is used for one of the following exempt purposes:
 - Irrigation of agricultural lands
 - Manufacturing
 - Care of animals whose products we eat or wear

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Energy Source Utility Exemption

- **Sales tax is not due when more than 50%** of a qualified energy source is used for an exempt purpose:
 - Generation of electricity
 - Irrigation or farming
 - Processing or manufacturing
 - Refining
 - Use by any hospital
- Use Form 13E, Nebraska Energy Source Exempt Sale Certificate

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Form 13E

Nebraska Energy Source Exempt Sale Certificate			FORM 13E
NAME AND MAILING ADDRESS OF PURCHASER		NAME AND MAILING ADDRESS OF SELLER	
Name		Name	
Street or Other Mailing Address		Street or Other Mailing Address	
City	State	Zip Code	City
Check Type of Certificate <input type="checkbox"/> Single Purchase <input type="checkbox"/> Blanket		If Blanket is checked, this certificate is valid until revoked in writing by the purchaser.	
Purchaser's Account Number		Was an energy audit (analysis) completed prior to issuing this certificate to the seller? <input type="checkbox"/> YES <input type="checkbox"/> NO	
Describe your business operations:			
<input type="checkbox"/> A. Our purchase of electricity or compressed natural gas is exempt from Nebraska sales and use tax because more than 50 percent of the energy charge through meter number(s) _____ has been properly determined to be used or directly consumed in: (check appropriate box) <input type="checkbox"/> Manufacturing and Processing <input type="checkbox"/> Farming <input type="checkbox"/> Generation of Electricity <input type="checkbox"/> Irrigation <input type="checkbox"/> Refining			
<input type="checkbox"/> B. Our purchase of coal, fuel oil, diesel fuel, tractor fuel, coke, nuclear fuel, butane, propane, or gas is exempt from Nebraska sales and use tax because more than 50 percent of the amount purchased is used or directly consumed in: (check appropriate box) <input type="checkbox"/> Manufacturing and Processing <input type="checkbox"/> Farming <input type="checkbox"/> Generation of Electricity <input type="checkbox"/> Irrigation <input type="checkbox"/> Refining			
<small>Any purchaser, or the agent thereof, or other person who completes this certificate for any purchase which is not otherwise exempted from the sales and use tax under the Nebraska Revenue Act, as amended, shall in addition to any tax, interest, or penalty otherwise imposed, be subject to a penalty of \$100.00 or less than the tax, whichever amount is larger, for each instance of preparation and issuance. With respect to a blanket certificate, said penalty shall apply to each purchase made during the period the blanket certificate is in effect. Under the penalties of law, I declare that I am authorized to sign this certificate, and to the best of my knowledge and belief, it is correct and complete.</small>			
sign here Authorized Signature of Purchaser		Title	Date Issued
NOTE: Sellers must keep this certificate as part of their records. Do not send it to the Nebraska Department of Revenue.			

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Summary of Purchases by Manufacturers

Recognize **what is taxable** and know how to document **what is not taxable**:

- MME Equipment Exemption Form 13, Section B
- Other Equipment **Taxable**
- Component/Ingredient Form 13, Section A
- Supply Items **Taxable**
- Energy Source Exemption Form 13E
- Water Exemption Form 13, Section B

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For more information on MME, refer to:

*Sales and Use Tax Regulation 1-12.02D(33);
Revenue Ruling 01-05-1; and
Revenue Ruling 01-11-1
at www.revenue.ne.gov.*

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Nonresident Individuals Performing Personal Services in Nebraska

• Business Background

- Any business that gets audited is reviewed to be sure the entity has correctly withheld income tax on payments made to nonresident individuals and certain other entities that were hired to perform personal services in Nebraska.
- A specific information guide has been created.

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Nonresident Individuals Performing Personal Services in Nebraska (continued)

• Definitions

- **Nonresident Individual.** A person who is not a resident of Nebraska at the time the personal service is performed.
- **Nonresident Entity.** Includes corporations, partnerships, and LLCs not domiciled in Nebraska, and that do not maintain a permanent place of business in Nebraska.
- **Personal Services.** Include services provided by persons not considered employees under the IRC. ⁶⁸

Nonresident Individuals Performing Personal Services in Nebraska (continued)

Payments to Nonresident Individuals

- **Payments are subject to withholding when:**
 - The payor maintains an office or transacts business in Nebraska and the payments exceed \$600; or
 - The payor does **not** have an office in Nebraska and the payments exceed \$5,000.

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Nonresident Individuals Performing Personal Services in Nebraska (continued)

Payments to Nonresident Entities

- **Payments are subject to withholding when:**
 - The payor maintains an office or transacts business in Nebraska and the payments exceed \$600; or
 - The payer does **not** have an office in Nebraska and the payments exceed \$5,000;

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Nonresident Individuals Performing Personal Services in Nebraska (continued)

Payment Requirements

- **...and when:**
 - 80% or more of the **voting stock** is owned by shareholders who perform the personal services;
 - or-
 - 80% or more of the **ownership or profits interest** of a partnership or LLC is held by partners or members who perform the personal services.

For these businesses, withholding is required for services performed by any shareholders, partners, or members. It doesn't matter how many are physically in Nebraska.

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**Let us know what you think.
Please turn in your evaluation!**

Thank You!

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